

REGULATION 2004-5

This regulation is promulgated by the Director of the Arkansas Department of Finance and Administration pursuant to the authority granted in Ark. Code Ann. 26-18-301 and Ark. Code Ann. 26-52-105 and is adopted in accordance with the provisions of Ark. Code Ann. 25-15-201 et seq.

EXEMPTIONS FROM TAX – TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS

- A. The gross receipts or gross proceeds derived from the sale of textbooks, library books, and other instructional materials are exempt from tax if purchased by:
 - 1. An Arkansas school district or Arkansas public school that receives state funding; or
 - 2. The State of Arkansas for free distribution to Arkansas school districts or Arkansas public schools.
- B. The exemption will not apply unless the instructional materials are to be provided to the students free of charge. Private schools and public libraries are not entitled to the exemption.
- C. For purposes of the exemption, “instructional materials” means and includes the following:
 - 1. Traditional books and trade books in printed and bound forms;
 - 2. Activity-oriented educational programs that may include manipulatives;
 - a. “Activity-oriented educational programs” are academic programs that incorporate hands-on learning strategies to enhance learning.
 - b. “Manipulatives” are tools used in conjunction with an educational activity that allow the student to explore and learn through direct manipulation of physical objects. In order to be entitled to the exemption, the manipulative must be purchased in conjunction with the activity-oriented educational program.
 - 3. Hand-held calculators or other hands-on educational materials;

- a. "Other hands-on educational materials" are educational materials provided to students to facilitate or enhance the students understanding of the subject matter. Items of equipment which belong to the school and which are used by the school for instructional purposes on a continuing basis from one class to the next are not hands-on materials.
 - b. Examples of items that are not exempt as hands-on materials include: Bunsen burners, microscopes, maps, video tapes, balls and mats for gymnastics, athletic uniforms, band instruments, and sheet music for choir and band. Nor does hands-on educational materials include supplies or furnishings used or consumed by the school.
- 4. Technology-based educational materials that require the use of electronic equipment in order to be used in the learning process, e.g. software and software licenses.
 - a. "Technology-based educational materials" does not include the equipment required to make use of these materials, e.g. computer hardware. Computer hardware is taxable.
 - b. Only software actually used in the learning process qualifies for the exemption. Other software, such as word processing software, does not qualify for the exemption.
- D. "Instructional materials" does not include disposable or consumable supplies; computer supplies; general use equipment and supplies, including photographic or audio visual equipment; or ordinary school supplies such as paper, pencils, etc., even if these supplies are distributed free of charge to the students.

These regulations shall be effective on and after September 15, 2004.